

KENTUCKY DEPARTMENT OF EDUCATION

STAFF NOTE

Action/Discussion Item:

703 KAR 5:080, Administration Code for Kentucky's Educational Assessment Program (Emergency and Ordinary Versions)

Applicable Statute or Regulation:

KRS 158.6453, 703 KAR 5:080

Action Question:

Should the Kentucky Board of Education (KBE) give approval to 703 KAR 5:080 (emergency and ordinary versions) to implement revisions required by Senate Bill 1 (SB1) passed during the 2009 Kentucky General Assembly?

History/Background:

Existing Policy. The administration of state-required assessments, both custom and purchased assessments, requires that Kentucky educators adhere to appropriate and consistent testing practices. The use of assessment results in public reporting and federal accountability calculations heightens the importance of statewide consistent administration practices. 703 KAR 5:080 incorporates by reference the document, *Administration Code for Kentucky's Educational Assessment Program*, which establishes appropriate testing practices for state-required assessments.

Annually, educators involved with administration activities for any state-required assessment must be trained on this regulation and certify by signature that they have read and will comply with the requirements of the regulation. In addition to the regulation, a test administration manual accompanies each assessment and provides specific directions for preparation of the test environment and test administration. Also, the regulation outlines an allegation process for reporting incidents where educators do not follow the requirements of the regulation. Educators involved in serious and intentional violations of the Administration Code are referred to the Education Professional Standards Board (EPSB) for possible further investigation that may lead to subsequent professional sanctions.

The KBE approved several revisions to 703 KAR 5:080 in August 2008. After legislative committee review, the revised regulation was effective February 12, 2009. These revisions have provided guidance to the spring 2009 administration of the Kentucky Core Content Tests.

Policy Issue (s):

Senate Bill 1, passed in the 2009 Kentucky General Assembly and signed by Governor Beshear, brings significant changes to the statewide assessment and accountability system with an interim period (2009-2011) and a new state system (2012-beyond). An immediate change requires that the Administration Code be revised to strengthen language regarding test preparation. Senate Bill 1, Section 19 states:

"No later than sixty (60) days after the effective date of this Act, the state board shall revise the Administration Code for Kentucky's Assessment Program to include prohibitions of inappropriate test preparation activities by school district employees charged with test administration and oversight, including but not limited to the issue of teachers being required to do test practice in lieu of regular classroom instruction and test practice outside the normal work day. The revisions shall include disciplinary sanctions that may be taken toward a school or individuals."

In order to achieve the sixty-day timeline, the KBE will need to approve both emergency and ordinary versions of the revised regulation at its May retreat. Upon KBE approval, the emergency regulation is forwarded to the Governor for approval and signature in order that the emergency version and its provisions are enacted immediately. In a parallel process, the ordinary version of the regulation proceeds through the public hearing process and legislative committee review process. If substantive changes are suggested by either the public hearing process or legislative review process, the regulation would come back to the board for a decision on any additional revisions prior to it becoming effective. In the end, the ordinary version becomes law and replaces the emergency version before the emergency version expires in 180 days.

The revisions to the Administration Code for the emergency filing may be organized into two categories:

- 1) Required by SB1, Section 19
- 2) Recommended for alignment to the statewide assessment and accountability program as required and defined by SB1

The proposed revisions in the first category (Required by SB1) build on existing test preparation guidance and the current allegation process. New language enhances guidance regarding test preparation with specific language from SB1. Also, revisions emphasize the connection of Education Professional Standards Board to the allegation process as the appropriate mechanism for possible professional sanctions for educators.

The proposed Administration Code revisions for the second category (Recommended for Alignment) reflect the new testing requirements for the interim period (2009-2011) in SB1. These changes are timely, yet temporary in nature. When the new state assessment system is designed for 2012, further revisions will be needed. For example, staff recommends removing references to the Commonwealth Accountability Testing System

(CATS) and test components no longer state-required, but in the future new components such as Program Reviews will need to be reflected in the Administration Code.

The specific revisions are outlined below organized by the two categories. Revisions are identified in the regulation in **bold** font with new language underlined and deletions shown with a ~~strikethrough~~. Page number references are based on the revised Administration Code document.

Required by Certain Deadline in SB1

Enhance guidance regarding test preparation.

- Add administrators and supervisors to list of individuals requiring training. (Page 4)
- Add the following language to introduction of Test Preparation and Student Motivation/Reward section. (Page 11)
 - **District and school employees charged with test administration and oversight shall not require teachers and other staff to conduct test preparation or practice activities instead of regular classroom instruction. Teachers and other staff shall not be required to conduct test preparation or practice activities outside the normal work day.**
- Change “may” to “shall” in statement regarding normal instruction. (Page 11)
 - Normal instruction **shall** ~~may~~ continue during the testing window as planned in the school/district curriculum map and lesson plans.
- Add clarification on acceptable and not acceptable administration of tests. (Page 11)
 - **Administering tests that provide information and data analysis to improve instruction and identify areas of strength and weakness for individual students is acceptable.**
 - **Administering tests that provide no feedback to teachers and students, but are conducted to teach test-taking skills or to simulate a testing environment is not acceptable.**
- Add language to section, III. Violations of the Administration Code for Kentucky’s Educational Assessment Program, to emphasize individuals covered by the Administration Code. (Page 18)
 - All **district and school** individuals **(full-time, part-time and volunteers)** participating in the administration of the testing program **or providing supervision and oversight of test administration** shall comply with the Administration Code for Kentucky’s Educational Assessment Program.

Emphasize the connection of Education Professional Standards Board for sanctions.

- Add language to Step 5 of the Allegations Process to emphasize the connections to EPSB. (Page 19)

- **The Commissioner or his designee shall also communicate findings of allegations investigations to the Education Professional Standards Board for their information and action.**

Recommended for Alignment as Required and Defined by SB1

Revise language in the Administration Code to align with new testing requirements for the interim period outlined in SB1.

- Delete references to CATS.
 - Change the Commonwealth Accountability Testing System (CATS) to Kentucky's assessment and accountability program. (Page 3)
 - Change CATS Allegations Coordinator to Testing Allegations Coordinator. (Page 18)
- Remove references to Writing Portfolios.
 - Delete the following sections: Writing Portfolios, Writing Portfolio Development, and Writing Portfolio Scoring. (Pages 13-16)
 - Delete "portfolio development and". (Page 4)
 - Delete "and during writing portfolio development". (Page 7)
- Remove references to Arts and Humanities and Practical Living/Vocational Studies.
 - Delete "arts and humanities or practical living/vocational studies". (Page 7)
- Remove references to accountability and accountability calculations
 - Change "accountability" roster to "testing" roster (Page 8)
 - Add "individual student" to the list of possible score change. (Page 19)
This reflects the process occasionally used with EXPLORE, PLAN and the ACT.
 - Change "accountability indices" to "scores". (Page 19)
 - Add reference to public reporting of school and district nonacademic indicators. (Pages 19-20)
 - Delete "data elements contributing to the school building and school district accountability indices" and "the calculation of accountability indices". (Pages 19-20)

A couple of additional changes have been made to improve sentence flow. These changes have not been cited here.

Staff Recommendations and Rationale:

Staff recommends approval of the emergency and ordinary versions of 703 KAR 5:080. The revisions are necessary in order to meet the requirements of SB 1 passed by the 2009 General Assembly.

Groups Consulted and Brief Summary of Responses:

Emergency revisions to the Administration Code have been discussed with the District Assessment Coordinators Advisory Group in a WebEx session. The ordinary version of the

regulation will be reviewed with the Local Superintendents Advisory Council (LSAC) prior to the board's regular June meeting and a copy of the emergency regulation will be tendered to LSAC upon approval by the Governor.

Impact on Getting to Proficiency:

As we move closer to 2014 it becomes increasingly important for schools to thoroughly understand the requirements of the assessment and accountability system including administration rules so that schools may focus their efforts on ensuring every child is proficient and prepared for success.

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Interim Deputy Commissioner

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